

August 11, 2023

Dear Judge Simon,

I'm writing to share my updated assessment of Settlement Agreement implementation, reflect on recent challenges, and call out opportunities to improve outcomes. Although I am a PCCEP member and the chair of the Training Advisory Council, I am writing on my own behalf and my views are not the views of PCCEP or TAC.

PCCEP

I am pleased to report that PCCEP continues to function well with strong staff support. The resumption of in-person meetings has improved PCCEP members' working relationships and ability to have nuanced conversations. Physical meetings are currently held on a case-by-case basis, and I look forward to seeing PCCEP transition to physical/hybrid¹ meetings by default.

One area of concern with PCCEP is over-reliance on staff support when setting agendas and driving PCCEP's work. I have heard this described as staff being controlling or using PCCEP for their own purposes. I don't think that description is entirely fair, but it is true that PCCEP staff schedule meetings, help craft agendas (with PCCEP member input), and shape PCCEP's work in the absence of a regular Steering Committee and proactive guidance from members. I believe this is a natural consequence of retaining full-time staff support with PCCEP members only coming together a few times per month. To the extent that this is a problem to be solved, it can be solved by the following means:

¹ Oregon now requires that public meetings be available virtually.

- Host PCCEP meetings more regularly and return to holding monthly or biweekly Steering Committee meetings
- Improve visibility of PCCEP's work plan and priorities, for example by maintaining a publicly shared list, document, or work plan²
- Define and document clear expectations and roles for PCCEP members and staff
- Provide project management training to PCCEP members

Public safety challenges

In 2020, many Portlanders took to the streets to demand a public safety system that keeps BIPOC Portlanders safe without exposing them to disproportionate use of force or the indignity of biased policing. Instead of taking thoughtful, deliberate action to improve our public safety system, the City of Portland made politically convenient choices, showing a cynical disregard for human life in the process. Those choices, including disbanding the GVRT and directing PPB members to stop enforcing non-moving traffic violations, have contributed to a record-breaking yet tragically predictable wave of violence that has torn apart families. Worse, while these changes were made in the name of racial justice, the consequences have disproportionately fallen on systemically disadvantaged communities, including BIPOC Portlanders who accounted for 41% of homicide victims in 2021 ³and 46% in 2022⁴. Adding insult to injury, the City of Portland's efforts haven't yielded the improvements in racial disparities sought; while in absolute terms the number of Black

² This year, PCCEP's work has been largely reactive and driven by current events, for example the ShotSpotter controversy and community concerns around Portland Street Response.

³ <https://www.wweek.com/news/city/2021/08/11/black-portlanders-are-more-likely-to-be-murdered-than-their-peers-in-cities-better-known-for-crime/>

⁴ <https://www.oregonlive.com/crime/2023/01/portlands-101-homicides-in-2022-set-new-record-at-some-point-we-have-to-be-tired-of-burying-our-children.html>

Portlanders subject to stops has decreased in recent years, white Portlanders saw an even greater decrease⁵.

The Court should consider The City of Portland's many failures to keep Portlanders safe when evaluating compliance performance. Further, the city should be held accountable for the disproportionate impact of those failures on BIPOC Portlanders and vulnerable road users.

Public safety successes

The City of Portland deserves credit for the Safer Summer program and non-police gun violence reduction efforts. Cure Violence involves the use of credible street-level messengers to intervene before violence escalates. CeaseFire/focused deterrence involves law-enforcement outreach directed at community members who are most likely to commit violence, paired with resources and support with a problem-solving model. Both approaches are examples of effective, evidence-based strategies for preventing gun violence that don't rely on dragnet policing. With hindsight, the city could have implemented these programs before disbanding the law enforcement response.

Trustworthiness

The City of Portland and the Portland Police Bureau are in a difficult position because they are not getting the benefits of a 'tough on crime' approach, while failing to realize the benefits of a successful reform agenda. In other words, Portlanders are not getting the public safety service they expect, while continuing to see the same disparate racial outcomes that fueled protest in 2020.

⁵ Stops Data Collection Report for 2022: <https://www.portland.gov/police/open-data/documents/2022-stops-data-collection-report/download>

The City of Portland should re-commit itself to providing effective, rights-respecting public safety services that demonstrate a respect for the value of human life. That will require building trust in the Police Bureau, using innovative public safety approaches, and dealing honestly and transparently with the public.

BikePortland recently reported that the bureau's messaging regarding traffic enforcement was an attempt to use dangerous roads as a cudgel against political leadership. Specifically, where the bureau could have made a deliberate effort to improve visibility and use perceived presence to improve driver behavior, they instead chose to announce that "*they do not have enough people to help them out to patrol your streets safely.*" This week, Sgt. Engstrom said, "*We needed to create a stir to get some change, to get them to fund us back up. And I mean, that's the honest truth. I know, that could make things more dangerous.*" The bureau's approach likely cost lives and harmed the relationship between the police bureau and the public. The police commissioner should take a more active role in ensuring that the political process controls the police bureau, not the reverse.

Advertising the police bureau's limitations in a cynical attempt to build their power by making public spaces more dangerous is a high-profile example of untrustworthy behavior. Unfortunately, several dishonest behaviors are common practice or protected by policy. These include continued use of consent searches, misleading labeling of sex work as human trafficking, and allowing members to lie during custodial interviews.

The bureau has recently improved its consent search policy, requiring that subjects sign a written document and verbally consent with an audio recording made of the conversation. While

this is a significant improvement, I believe that subjects are still consenting to searches⁶. Given the power distance between subjects and law enforcement officers and the relative lack of experience with and trust in the legal system and the protections it offers, there is a high risk of subjects consenting to searches that are not consistent with their interests. In any other context, asking someone to do something that is not in their interest, under the implied threat of force, would be seen as coercion. Eliminating consent searches would be an effective approach to reducing disparity in consent searches and it would demonstrate the bureau's commitment to fair, trustworthy conduct.

Similarly, PPB policy enables dishonest conduct by failing to prohibit lying in some circumstances. Directive 0310.50 Truthfulness prohibits lying to juveniles, but not adults. Portlanders are right to wonder whether officers might be lying to them during interviews. The City of Portland should earn trust in law enforcement by requiring officers to be honest and trustworthy.

Another opportunity to improve trust would be to communicate PPB's human trafficking and sex work demand reduction efforts more clearly. A recent sting⁷ by the Human Trafficking Unit resulted in several charges for buyers, but no charges for sex trafficking and no definitive information about how many of the potential victims were victims. Human trafficking is a serious problem that needs to be addressed, but PPB's communications on this issue are a source of controversy and erode support for their work. PPB should rename the unit to better capture the scope of the work, which primarily consists of arresting sex work clients. Further, PPB should

⁶ This video from KGW documents an apparent consent search at 4:11. Notably, the subject should not have consented to this search. <https://www.youtube.com/watch?v=GAyBN4sCXA4>

⁷ <https://www.kgw.com/article/news/crime/portland-police-human-trafficking-mission/283-cb538a3e-4c1b-4898-879c-144f47bb01ac>

make a deliberate outreach effort and work collaboratively with sex workers and trafficking survivors to build sustainable and effective strategies that serve these vulnerable Portlanders.

Respectfully submitted,
Nathan Castle